

Appln. No.: 10/800,672
Response under 37 C.F.R. § 1.111

REMARKS

Claims 1-5 are pending.

Claims 1-5 have been rejected under the judicially created doctrine of obviousness type double patenting over claims 1-6 of U.S. Patent No. 6,569,950.

While Applicants respectfully submit that the present invention is not obvious over the claims of U.S. Patent No. 6,569,950, to expedite allowance of the present Application, Applicants are submitting herewith a terminal disclaimer to obviate the obviousness-type double patenting rejection over the claims of U.S. Patent No. 6,569,950. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

Claims 1-5 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kitano et al., U.S. Patent No. 6,569,950 ("Kitano").

U.S. Patent No. 6,569,950 shares an inventor in common with the present application, Takashi Sanada.

Applicants submit herewith a Declaration under 37 C.F.R. § 1.132 executed by Takashi Sanada. The Declaration executed by Mr. Sanada states that at least part of the invention claimed in the present application, the portions relied upon by the Examiner, was disclosed but not claimed in U.S. Patent No. 6,569,950. Therefore, the invention disclosed, but not claimed in the U.S. Patent No. 6,569,950, was derived by Mr. Sanada and is not the invention "by another." Thus, U.S. Patent No. 6,569,950 is not § 102(e) prior art to the present invention.

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In view of the foregoing, Applicants respectfully request that the Examiner reconsider and withdraw the § 103 rejection over Kitano.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

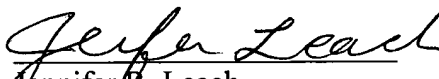
Respectfully submitted,

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